

REMARKS

This amendment is submitted in response to the Examiner's Action dated December 4, 2003. Applicants have amended the claims. Where discussion/arguments are provided below in response to the claim rejections, those arguments reference the claims in their amended form.

IN THE SPECIFICATION/ABSTRACT

In the present Office Action, the abstract of the disclosure is objected to as containing improper terminology. Accordingly, Applicants have reviewed the abstract and provided corrections thereto. Applicants respectfully request entry of the amendments to the abstract and thank the Examiner for his attention to detail.

CLAIMS REJECTIONS UNDER 35 U.S.C. § 112

At paragraph 2 of the Office Action, Claim 1 is rejected under 35 U.S.C. § 112, first paragraph, as reciting a single-means. This rejection is overcome by the amendments to Claim 1, which is now rewritten to recite additional features capable of performing the recited functions.

Also, at paragraph 4 of the Office Action, Claim 1 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants have amended the claim to remove the deficiencies recited by the Examiner. The amendment overcomes the § 112 rejection, and Applicant respectfully requests reconsideration of the rejection in light of the amendment. Applicants thank the Examiner for his attention to this detail.

CLAIMS REJECTIONS UNDER 35 U.S.C. § 102

At paragraph 7 of the present Office Action, Claims 1-5, 7-10 and 12-14 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,321,272 to Swales (*Swales*). Applicants have cancelled Claims 2-6 and 8-9. Applicants respectfully submit that *Swales* does not anticipate Applicants' amended Claims 1, 7, and 10-14, because *Swales* does not explicitly or inherently disclose each feature recited by Applicants' amended Claim 1 or those features recited by amended dependent Claims 7 and 10-14. Applicants respectfully traverse the Examiner's

rejections of Claims 1-5, 7-10 and 12-14, insofar as they might be applied to Applicants' amended Claim 1 or Applicants' amended dependent Claims 7 and 10-14.

The standard for a § 102 rejection requires that the reference teach each element recited in the claims. As briefly outlined above, *Swales* fails to meet this standard and therefore does not anticipate Applicants' invention. Specifically, Applicants' amended Claim 1 recites that "at least two of said plurality of data rates are unequal and are fractions of said initial rate, all said fractions being capable of reduction to a common denominator and at least one of said fractions being irreducible". The Examiner concedes, at paragraph 13 of the present Office Action (in his rejection of former Claim 6 under 35 U.S.C. § 103 (a)), that *Swales* does not teach a method of fractional distribution of data among several interfaces.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

At paragraph 11 of the present Office Action, Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 6,321,272 to Swales (*Swales*) in view of U.S. Patent No. 6,310,881 to Zikan, *et al.* (*Zikan*). Applicants have cancelled Claim 6 and amended Claim 11. However, to the extent that the Examiner would seek to apply against Applicants' amended Claims 1, 7 and 10-14 the rejections currently applied against Claims 6 and 11, Applicants respectfully submit that exemplary Claim 1 is not rendered obvious by the combination of *Swales* with *Zikan*, because that combination does not teach or suggest all of the elements of Applicant's claims as amended herein.

Specifically, with respect to amended independent Claim 1, the Examiner concedes in paragraph 13 of the present Office Action that "*Swales* does not teach the method ... to distribute data among the several interfaces." The Examiner subsequently cites column 2, lines 35-59 of *Zikan* as teaching "cyclically distributing data between several interfaces." Applicants' amended Claim 1 specifically recites, "at least two of said plurality of data rates are unequal and are fractions of said initial rate, all said fractions being capable of reduction to a common denominator and at least one of said fractions being irreducible; and ... cyclically distributing ... such that each of said plurality of low speed interfaces receives a number of consecutive units of said data equal to the numerator of its associated fraction."

The cited text of *Zikan* does not generally disclose fractional distribution, and does not specifically disclose the use of irreducible common denominators or data distribution among link interfaces in proportion to a numerator when it states:

The present invention is directed to a network traffic director system in a data communication system having network traffic with randomly distributed demands and flows. In one aspect of the present invention the network traffic director system includes router modules configured to direct data packets in the data communication system, each router module being a home router module including a neighborhood supervisor. The neighborhood supervisor is configured to send home potentials of the home router module to neighborhood supervisors of neighboring router modules and to receive neighbor potentials of the neighboring router modules from neighborhood supervisors of neighboring router modules. The home router module further includes a dynamic load balancer configured to determine flows based on the home and neighbor potentials. The dynamic load balancer adjusts the home potentials if first conditions including flow conditions are not met. The dynamic load balancer also updates routing tables if second conditions based on the adjusted home potentials are met. The home router module also includes a dynamic data flow splitter configured to receive data packets from networks and router modules. The dynamic data flow splitter selects a portion of the data communication system for each data packet received based on the updated routing tables. Each received data packet is transmitted to the portion of the data communication system selected by the dynamic data flow splitter for the received data packet. (*Zikan*, Column 3, lines 35-59).

Nothing in the cited text of *Zikan* discloses or suggests fractional distribution, the use of irreducible fractions with a common denominator or distribution in proportion to a numerator. Neither *Swales*, nor the proposed combination of *Swales* with *Zikan* teaches or suggests the combination of elements recited in amended Claim 1.

Given the above reasons, it is clear that the proposed combination of references does not suggest key features of Applicants' claimed invention. Applicants respectfully submit that one skilled in the art would not find Applicants' claimed invention obvious over the combination of references. Applicants respectfully submit that the above claims are therefore allowable over the cited combination of references.

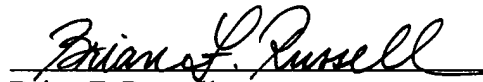
CONCLUSION

New claims 15-28 recite limitations of a computer program product and a method for performing the present invention. Applicants respectfully submit that, because of their similarity to the limitations recited in amended Claims 1-14, new Claims 15-28 are likewise allowable.

Applicants have diligently responded to the Office Action by appropriate amendments and arguments. Because the amendments and arguments overcome the claim rejections, Applicants respectfully request issuance of a Notice of Allowance for all claims now pending.

Applicants respectfully request the Examiner contact the undersigned attorney of record at 512.343.6116 if such would further or expedite the prosecution of the present Application.

Respectfully submitted,



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